

## Message Text

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TO AMEMBASSY MONROVIA PRIORITY

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E.O. 11652:N/A

TAGS:MARR, ETRN, LI

SUBJECT:OMEGA LIBERIA: INTERPRETATION OF  
PARAGRAPH (6) OF BILATERAL AGREEMENT

REF: MONROVIA 2603

1. PURSUANT TO EMBASSY REQUEST REFTEL, WE HAVE REVIEWED  
APRIL 18, 1973 AGREEMENT, AND IN PARTICULAR PARAGRAPH (6)  
THEREOF, IN ORDER TO DETERMINE WHETHER IT PROVIDES BASIS  
FOR EXEMPTION OF US CONTRACTOR PERSONNEL FROM LIBERIAN  
INCOME AND OTHER TAXES. WHILE EXEMPTION IN FIRST SENTENCE  
OF PARAGRAPH (6) OF "SERVICES . . . BROUGHT INTO . . .  
LIBERIA BY EITHER GOVERNMENT OR ITS CONTRACTORS" MAY BE  
BASIS FOR ARGUMENT THAT LABOR PERFORMED BY US CONTRACTORS  
CONSTITUTES "SERVICE" EXEMPT FROM "CUSTOMS, DUTIES, TAXES,  
AND OTHER CHARGES" WITHIN MEANING OF THAT PARAGRAPH,  
SPECIFIC INCLUSION IN SECOND SENTENCE OF PARAGRAH (6) OF  
EXEMPTION FROM "TAXES ON EMOLUMENTS" RECEIVED BY USG  
PERSONNEL ON TDY IN LIBERIA IN CONNECTION WITH OMEGA  
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FACILITY STRONGLY SUGGESTS THAT INCOME RECEIVED BY CONTRAC-

TOR (I.E., NON-USG) PERSONNEL WAS NOT RPT NOT INTENDED TO BE EXEMPT AS WELL IN ABSENCE OF CLEAR STATEMENT TO SUCH EFFECT IN AGREEMENT. CONSEQUENTLY, WE DO NOT BELIEVE THAT FIRST SENTENCE OF PARAGRAPH 6 CONSTITUTES PERSUASIVE LEGAL BASIS FOR POSITION THAT CONTRACTOR PERSONNEL ARE EXEMPT FROM LIBERIAN INCOME OR OTHER TAXES AS A MATTER OF RIGHT

UNDER TERMS OF AGREEMENT. UNLESS EMBASSY CONSIDERS THAT GOL WOULD ACCEPT SUCH ARGUMENT, WE WOULD BE RELUCTANT TO APPROACH THEM ON THAT BASIS ALONE.

2. ON THE OTHER HAND, NOTHING IN AGREEMENT PREVENTS GOL FROM EXEMPTING CONTRACTORS FROM LIBERIAN INCOME TAX IN CONNECTION WITH THIS PROJECT OF MUTUAL BENEFIT TO BOTH GOVERNMENTS. SINCE USG WILL BEAR ULTIMATE BURDEN OF ANY TAX ON CONTRACTORS AND SINCE USG IS ALREADY BEARING GREATER SHARE OF COSTS FOR OMEGA PROJECT IN LIBERIA THAN IN ANY OTHER COOPERATING COUNTRY, WE WOULD HOPE THAT GOL WOULD BE WILLING TO FOREGO WINDFALL TAX REVENUE WITH RESPECT TO INCOME THAT WOULD NOT RPT NOT HAVE BEEN REALIZED IN LIBERIA IN ABSENCE OF AGREEMENT TO COOPERATE IN OMEGA PROJECT.

3. DEPT SUGGESTS THAT EMBASSY POINT OUT TO GOL AMBIGUITY IN FIRST SENTENCE OF PARA 6, ANTICIPATED INCREASED COSTS TO USG IF CONTRACTOR HAD TO PAY HIGHER SALARIES BECAUSE OF LIBERIAN INCOME TAXES, AND PROPOSE INTERPRETATION OF AGREEMENT TO EXCLUDE SUCH TAXES. HOWEVER, IF GOL STRONGLY RESISTS, WE CANNOT REASONABLY INSIST ON BETTER TERMS THAN WE NEGOTIATED AT TIME AGREEMENT WAS SIGNED.

4. WOULD APPRECIATE REPORT ON OUTCOME OF DISCUSSIONS WITH GOL. RUSH

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